

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES - GENERAL**

Case No.	<b>11-CV-07154 MRP (MANx)</b>	Date	April 26, 2012
Title	<b>THRIVENT FINANCIAL FOR LUTHERANS, et. al. v. COUNTRYWIDE FINANCIAL CORPORATION, et al.,</b>		

Present: The Honorable	<b>MARIANA R. PFAELZER</b>		
Cynthia Salyer	None	N/A	
Deputy Clerk	Court Reporter / Recorder	Tape No.	
Attorneys Present for Plaintiff:	Attorneys Present for Defendant:		
None	None		

**Proceedings: (In Chambers)**

**ORDER RE: INCORPORATION BY REFERENCE**

The Court has received Plaintiffs' Response to Defendants' Motions to Dismiss the Amended Complaint, ECF No. 183, in which Plaintiffs attempt to incorporate by reference arguments made by different counsel, on behalf of different plaintiffs, in a different case. Response at 2. It is inappropriate to incorporate legal arguments by reference. L.R. 7-9 (opposing memorandum must contain "complete" statement of the "reasons in opposition to" the motion). *See Shannahan v. I.R.S.*, 637 F. Supp. 2d 902, 915 n.9 (W.D. Wash. 2009) (incorporation by reference was improper); *AT & T Commc'ns of Cal. v. Pac. Bell*, No. C96-1691 SBA, 1996 WL 940836, \*11 n.18 (N.D. Cal. July 3, 1996) (same). *See also Leroy v. Pamax Dev., Inc.*, 29 Fed. Appx. 514, 515 (10th Cir. 2002) (under equivalent rule of appellate procedure, court is not obligated to consider incorporated-by-reference arguments). This rule helps enforce page limitations, ensures that arguments are tailored to the facts of a case, and ensures that attorneys have satisfied their Rule 11 duties of reasonable investigation. The rule is especially appropriate when the incorporation by reference is from arguments made by a different party with different counsel.

The deadline for Plaintiffs to oppose the Bank of America Defendants' motion has passed, and Plaintiffs have not made any argument aside from seeking to incorporate others' work by reference. Those arguments are not properly before the Court. Therefore, the Court treats the Bank of America Defendants' motion to dismiss as unopposed with respect to Causes

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of Action Seven and Eight.<sup>1</sup>

**IT IS SO ORDERED.**

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<sup>1</sup> This holding applies only to arguments that Plaintiffs have attempted to incorporate from another case. To the extent that Plaintiffs have re-alleged previously dismissed claims solely to preserve their appellate rights, the Court finds that incorporation-by-reference of arguments previously raised *in this case* was appropriate.